

Postal Sector - Protecting the Integrity of Mail Consultation Paper

16th February 2006

Contents

	Pages
Foreword	3
1. Introduction	4
1.1 Mail Integrity Obligations	4
1.2 Mail Integrity Objectives	5
1.3 Maltapost’s Submission.....	6
1.4 Purpose of this Consultation Paper.....	6
1.5 Submission of Comments	6
2. Purpose of Establishing Minimum Standards	8
2.1 Scope	9
2.2 Officers of a Postal Operator.....	9
2.3 Changes to the Minimum Standards	10
3. Recruitment	11
3.1 Proposed Minimum Requirements	11
4. Training	13
4.1 Proposed Minimum Requirements	13
5. Security of Mail	15
5.1 Proposed Minimum Requirements	16
6. Disciplinary Procedures	18
6.1 Proposed Minimum Requirements	19
7. Agents and Subcontractors	20
7.1 Proposed Minimum Requirements	20
8. Information Requirements	22
8.1 Proposed Minimum Requirements	23
9. Enforcement	25
9.1 Licensing / General Authorisation Process	25
9.2 Monitoring Postal Operators.....	25

Appendix

Appendix A	Proposed Minimum Standards
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Foreword

Postal services provide vital infrastructural support for the various economic and social activities that take place. Therefore customers need to have an assurance that the mail they entrust to any postal operator will arrive at its destination and not be interfered with, lost, damaged or stolen.

In addition to the physical infrastructure, mail integrity refers to issues relating to the security of mail that need to be in place to ensure, as far as possible, that mail sent by a customer reaches its intended recipient. Postal operators should have in place appropriate policies, procedures and measures to ensure that the integrity of mail is protected. Mail integrity constitutes a key element in ensuring consumer confidence in the market.

Risks to mail integrity may emanate from the people who have access to that mail, whether authorised or otherwise. These people may damage mail, delay it, interfere with it, or steal it. Other events that can result in the destruction of mail, the closure of postal facilities and cause physical harm to employees or consumers may also occur by way of natural disasters (such as floods and earthquakes), accidents (for example vehicle accidents which may expose mail to security hazards) and weapons of mass destruction (for example chemical, biological and radiological threats).

In order to reduce the associated risks and taking into consideration the different circumstances depending on the nature and size of operations of postal operators, this document aims to propose minimum standards for the:

- o prevention of unauthorised access to the mail;
- o management of authorised access to the mail; and the
- o prevention and management of damage and/or injuries resulting from natural disasters, accidents and dangerous goods.

This consultation paper seeks the views of all interested parties with regard to the minimum standards to be achieved for the protection of the integrity of mail by postal operators.

The MCA will analyse and consider the comments received and publish its decision on the minimum standards for the protection of mail to be adopted by licensed and authorised postal operators. Postal operators will be required to ensure that their mail integrity policies and procedures meet or exceed the established minimum standards.

The MCA intends to monitor compliance with these standards by taking a risk-based approach. A summary of the proposed minimum standards is also included in this document as part of **Appendix A**.

1. Introduction

The Malta Communications Authority (MCA) is the National Regulatory Authority (NRA) responsible for the regulation of postal services in Malta as stipulated in the Malta Communications Authority Act (Cap 418),¹ and the Postal Services Act (Cap 254).² The latter came into force on the 1st June 2003 and transposes EU Postal Directive 97/67/EC as amended by 2002/39/EC.³

In October 2005 the Minister for Competitiveness and Communications (MCMP) brought into force the Postal Services (General) Regulations, 2005.⁴ These regulations, amongst others, set up an individual licensing regime for operators whose activities are deemed as falling within the scope of the universal service and a general authorisation regime for postal operators within the so-called competitive area.

1.1 Mail Integrity Obligations

In December 2004, the Government modified Maltapost Plc's (hereinafter referred to as Maltapost) licence in order to bring it in line with the provisions of the Postal Services Act. Amongst others, the modified licence stipulated that within six (6) months of the grant of the (modified) licence, Maltapost, as the **licensed universal service provider**, was required to submit to the MCA, for its approval, its procedures for protecting the integrity of mail.⁵

Licensed operators operating within the universal service area are also required to forward their proposed mail integrity procedures to the MCA, for approval, within one month from the grant of a licence.⁶

As specified in Maltapost's licence and that of postal operators operating within the universal service area, the MCA is required to verify that their mail integrity policies and procedures reflect and conform to all legal requirements. In addition, the MCA may require a postal operator to amend its procedures to ensure that all the elements for protecting the integrity of mail are provided for. Licensed postal operators are to use all reasonable endeavours to apply their mail integrity protection procedures and are required to allow the MCA to verify the application of such procedures and any

¹ Refer to http://docs.justice.gov.mt/lom/legislation/english/leg/vol_13/chapt418.pdf.

² Refer to http://docs.justice.gov.mt/lom/legislation/english/leg/vol_6/chapt254.pdf.

³ Refer to http://europa.eu.int/comm/internal_market/post/framework_en.htm.

⁴ Refer to <http://docs.justice.gov.mt/lom/legislation/english/subleg/254/01.pdf>.

⁵ Refer to Maltapost's Licence LN 500 of 2004 (<http://www.mca.org.mt/library/show.asp?id=538&lc=2>).

⁶ Refer to the sample licence of alternative operators operating within the Universal Service Area (http://www.mcmp.gov.mt/pdfs/postal_services_memo.pdf).

related physical facilities. The MCA may review postal operators' mail integrity procedures at least once every two years.⁷

The MCA may also issue directives to a postal operator providing postal services which fall within the scope of the universal services to ensure the protection of the integrity of mail, provided that, before issuing any such directives the MCA may consult with such interested parties as it deems appropriate in the circumstances.⁸

Postal undertakings operating under a general authorisation are required to provide details of their mail integrity procedures within two months from date of commencement of the relative activity and thereafter maintain and operate adequate mail integrity procedures.⁹

1.2 Mail Integrity Objectives

The obligations relating to mail integrity aim at minimising the exposure of postal articles¹⁰ conveyed by postal operators to the risk of loss, theft, damage and/or interference, as well as minimising the risk of offences under Part XI of the Postal Services Act.¹¹

In order for a postal operator to achieve the above-mentioned mail integrity objectives, it should implement policies and procedures that address the following elements:

Recruitment	Procedures related to the selection and vetting of prospective employees.
Training	Procedures related to the initial and ongoing training to be given to employees.
Security of Mail	Details of the measures put in place and actions taken to: prevent problems occurring with the security of mail in premises, vehicles and equipment used to handle and deliver mail; and to prevent injuries to people from dangerous goods, accidents and natural disasters.
Disciplinary Procedures	Details of the standard of conduct expected of each employee.
Agents and Sub-contractors	Procedures for dealing with agents or subcontractors.
Information and Reporting Requirements	Procedures for recording and reporting information, and dealing with mail integrity problems.

The proposed minimum standards that should apply to each of the above-mentioned elements are summarised in **Appendix A** and detailed in the following sections.

⁷ Refer to Maltapost's Licence and the Licence of alternative operators operating within the Universal Service Area.

⁸ Refer to regulation 66 of the Postal Services (General) Regulations, 2005.

⁹ Refer to Part II of the Notification Form for General Authorisation (<http://www.mca.org.mt/library/show.asp?id=609&lc=2>).

¹⁰ 'Postal Article' has the same meaning given in the Postal Services Act.

¹¹ Refer to Articles 66 to 76 of Part XI and Article 77 of Part XII of the Postal Services Act.

1.3 Maltapost's Submission

In line with Maltapost's licence obligations, on the 10th June 2005, Maltapost submitted, to the MCA for approval, its procedures adopted for protecting the integrity of mail. The procedures put forward by Maltapost were examined by the MCA to ensure that all the mail integrity elements depicted in its licence have been catered for.

The MCA is of the opinion that Maltapost's submission, in the main, covers the key elements that are considered adequate for the protection of the integrity of mail. However, the submitted procedures are deemed by the MCA as being high-level. Detailed written policies and procedures under document control and covering all the elements required to achieve the mail integrity objectives should be in place and Maltapost should act in accordance with these policies and procedures.

1.4 Purpose of this Consultation Paper

This consultation paper sets out the minimum standards of mail integrity procedures, including the requirements of information and enforcement procedures, being proposed by the MCA with respect to each of the above-mentioned three categories of postal operators. This consultation paper will lead to the MCA laying down a decision on the minimum standards to be achieved for the protection of mail, which standards will then have to be respected by the postal operators when implementing their mail integrity procedures.

Moreover, Maltapost will be required to make available to the MCA its detailed internal policies and procedures for protecting the integrity of mail that reflect the established minimum standards within eight (8) weeks from the publication of the MCA's Decision Notice.

1.5 Submission of Comments

The consultation period will run from **Thursday 16th February 2006 to Thursday 30th March 2006** during which the MCA welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, the MCA will review the minimum standards to be set by Maltapost and any other postal operator for protecting the integrity of mail and publish its decision which will, inter alia, summarise the responses to the consultation.

Receipt of comments will be acknowledged. Comments will be made publicly available by the MCA on its website unless declared confidential and subject to MCA's confidentiality guidelines and procedures.¹²

¹² Refer to <http://www.mca.org.mt/library/show.asp?id=544&lc=1>.

Respondents are also kindly requested to preferably refer their comments to the numbered consultative questions. Respondents may also make comments on any aspect of the consultation by referring to the specific sections of this document when making their submissions.

All responses to this consultation should be clearly marked “**Protecting the Integrity of Mail – Proposed Minimum Standards for Postal Operators**” and sent by post, facsimile or e-mail to:

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Malta Communications Authority
Il-Piazzetta, Suite 43/44, Tower Road
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Email: postal@mca.org.mt

2. Purpose of Establishing Minimum Standards

The MCA believes that establishing minimum standards would, on the one hand, benefit postal operators by facilitating the establishment of clear and consistent written policies and procedures together with any physical measures that may be required in order to achieve these standards.

On the other hand, the MCA believes that the standards will give customers confidence in the sector which, in turn, benefits postal operators. In particular, the standards will be common to all postal operators and customers will know that these standards apply irrespective of the postal operator's size or position in the market place or the customer's purchasing power.

The MCA recognises that there is a balance to be struck between setting standards for mail integrity to protect the interests of the consumer and maintaining a 'light touch' regulatory regime where licensing and general authorisation conditions are not unnecessarily intrusive and act as an operational hurdle. The MCA is also aware of the need to avoid taking a prescriptive approach which sets out the operational procedures that postal operators should put in place.

The MCA is appreciative of the fact that any standards should be established in such a way as to give postal operators, the freedom to develop their own individual business models and operate their business effectively, providing they meet the required standards. Therefore, it is up to the postal operator to consider what written policies, procedures and monitoring mechanisms they wish to put in place to meet, or exceed, those standards.

Although there are benefits associated with introducing these minimum standards, the MCA recognises that postal operators would incur some costs associated with complying with these minimum standards. Costs are likely to include the cost of developing and managing the procedures required to be put in place, managing the operation in accordance with the procedures and ensuring that these procedures remain fit for the purpose. Nevertheless, the MCA is of the opinion that the development of procedures is in the main a one-off cost, and that, in most cases, the procedures are such that most postal operators would expectedly implement anyway or already have in place.

Having established the requisite procedures, the MCA believes that an efficient postal operator would look to operate in accordance with these on a day-to-day basis, and would ensure that the procedures remained appropriate.

The MCA would like to ensure that the overall standard for mail integrity across the sector is an acceptable minimum for the benefit of users of postal services. It also believes postal operators will be able to build upon the minimum standards by factoring in ‘added value’ to their mail integrity protection procedures over and above the proposed minimum standards.

2.1 Scope

The minimum standards being proposed herein are not in any way linked to the postal operator’s size, structure or classification in that the integrity of all mail dealt with by all postal operators ought to be protected.

To this effect, the MCA notes that the provisions under Part XI of the Postal Services Act cover all postal articles and draws no distinction between mail inside and outside the licensed area. Hence, the minimum standards should cover all postal operators as defined in the Postal Services Act.

These minimum standards would therefore apply to the universal service provider, the providers operating within the universal service area (i.e. subject to a postal licence) and those operating outside the universal area (referred to as the competitive area and subject to a general authorisation).

In view of the fact that the minimum standards are based on the establishment of policies and procedures, the MCA expects that postal operators will be in a position to tailor such policies and procedures to their own circumstances, including the size, and structure of their organisation.

2.2 Officers of a Postal Operator

The MCA recognises that not all the officers of a postal operator¹³ (hereinafter referred to as ‘employees’) are involved in handling mail or have access to the mail being handled. In introducing minimum standards the MCA wants to ensure that it does not impose requirements on postal operators where these are not necessary.

The employees or workers who would fall within the scope of the proposed minimum standards include permanent, temporary, casual or part-time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling postal articles or who are reasonably likely to have access to postal articles in the course of their work.

¹³ ‘Officer of a postal operator’ has the same meaning given in the Postal Services Act.

2.3 Changes to the Minimum Standards

The MCA recognises that the minimum standards may have to be amended over time as the postal market environment changes. The MCA will introduce such changes to the minimum standards by seeking the views of all stakeholders.

The MCA proposes that all requests by postal operators for changes to the existing standards are referred to it. Prior to reviewing any proposed changes, the MCA will ensure that such changes will better facilitate the achievement of the mail integrity objectives. All proposals that appear consistent with the mail integrity objectives may be subject to public consultation. The MCA will take the views of the responses received to the consultation into account in reaching its final decision on the request for change. Nevertheless, the MCA will review the minimum standards at least once every two years.

3. Recruitment

As already mentioned above an element of risk to the integrity of mail comes from people who have rightful access to that mail. Postal operators cannot avoid addressing the fact that their own employees or workers may pose a risk to the integrity of mail.

In order to mitigate against this risk, appropriate processes and procedures should be in place at the recruitment stage. A postal operator needs to ensure the integrity and honesty of individuals seeking employment with it. This is a key measure for the maintenance of mail integrity and the fostering of consumers' confidence in the postal market.

Good recruitment procedures play a critical role in the selection of individuals wishing to gain employment within the postal sector. The drawing up and putting into place of effective controls, on the part of the postal operator, will reduce the risk of unsuitable individuals gaining employment with them and so mitigate the risks of loss of mail through, for example, theft, interference or intentional delay.

The MCA acknowledges that having such controls in place does not in itself guarantee the integrity and honesty of employees. Postal operators would also need to implement additional contingencies and controls (as described in the following sections) in order to address any issues that may arise and to mitigate these risks.

3.1 Proposed Minimum Requirements

If a postal operator employs or uses (or intends to employ or use) employees, the postal operator must:

- establish, maintain and adhere to a recruitment policy in relation to the employment or utilisation of employees designed to facilitate the achievement of the mail integrity objectives; and
- allocate responsibility to specific personnel within its organisation for the implementation, compliance and monitoring of that recruitment policy.

The MCA is of the opinion that policies and procedures for recruitment should include:

- a description of the various different jobs, roles and responsibilities;
- the information about a prospective employee that the postal operator requires;

- the steps which the postal operator needs to take to satisfy itself of the identity of the prospective employee;
- the steps which the postal operator needs to take in order to confirm a prospective employee's work history;
- a requirement for prospective employees to declare any criminal convictions or any cautions or conditional discharges for offences relating to postal articles or dishonest conduct generally, and guidelines on how any such convictions, cautions or conditional discharges declared by prospective employees will be taken into consideration in deciding whether or not to employ the prospective employee; and
- the ongoing overall monitoring of employees.

Q1. Do you agree with the requirements proposed as the minimum standards in relation to recruitment? Should anything else be addressed?

4. Training

Training plays an important role in enabling staff to be in a position to carry out their duties competently and in accordance with the postal operators policies and procedures. In any job, employees need to understand what is required of them and be comfortable with carrying out those duties safely, efficiently and productively.

The MCA recognises that postal operators will have different approaches to training their staff and that these will be tailored to job specific needs. The MCA is not looking to be prescriptive with respect to how training is to be provided or to require postal operators to establish formal training courses. Training can be by way of a formal course, but it can also be carried out through, for example, informal briefings or on-the-job training. This means that postal operators can determine how they will implement the requirements while meeting the overall mail integrity objectives.

Training an individual when he/she first takes up a position of employment is important, but the procedures also need to address the requirement for any ongoing or supplementary training. Postal operators should therefore consider the frequency with which training should be provided and how any changes in operational procedures might impact upon their training programme and achievement of the mail integrity objectives.

The MCA is proposing a standard which, in its view, mitigates the risks which may be posed to mail or the safety of employees and consumers. Inadequate training may directly or indirectly contribute to security threats, a breach in discipline or lead to an offence being committed by an employee making the wrong choices through lack of knowledge on how to perform their duties correctly and not understanding the gravity of interfering with the mail.

4.1 Proposed Minimum Requirements

If a postal operator employs or uses employees, the postal operator must:

- establish, maintain and adhere to a training policy that provides for employees to receive initial and ongoing training (tailored to their job specific needs) so as to facilitate achievement of the mail integrity objectives;
- allocate responsibility to specific personnel within its organisation for the implementation, monitoring and compliance with that training policy;

- ensure that all employees are appropriately informed of the provisions of Part XI of the Postal Services Act¹⁴ and made aware of the seriousness of the offences detailed in those sections; and
- postal operators must monitor, regularly review the training policy and, where necessary, update or amend the policy to ensure that it continues to meet the mail integrity objectives.

The MCA proposes that training policies and procedures should set out:

- the levels of training required to meet the mail integrity objectives, including the minimum level of training;
- the levels of training required taking into account the responsibilities of and work undertaken by the respective employees in relation to mail;
- an explanation of how the training will be provided;
- the frequency with which the training should be provided; and
- details of how the training is delivered, recorded and monitored.

Q2. Do you agree with the above-mentioned proposed minimum requirements in relation to training of employees? Should anything else be addressed?

¹⁴ These offences, amongst others, relate to the transmission by post of prohibited articles, punishment of detaining or opening mailbags, punishment for unlawfully opening postal articles and breach of declaration given on Oath under the provision of Article 30.

5. Security of Mail

The MCA recognises that unauthorised access poses a serious threat to the security of mail. Unauthorised access may be experienced, for example, through access to a building, or during the collection or delivery of mail.

The MCA is of the opinion that postal operators should consider the risk of an individual not having authorisation gaining access to the mail and consider what measures it should put in place to mitigate against such unauthorised access. The MCA also recognises that individuals having authorised access to the mail can also pose a threat to it.

This section addresses the security issues surrounding mail and seeks to place general obligations on postal operators to ensure the security of the mail in premises, vehicles and equipment used to handle and deliver it.

The MCA recognises that postal operators will have different ways of operating and it does not intend to prescribe the measures that postal operators should put in place. What is important is that the said measures provide appropriate levels of security to prevent, as far as possible, inappropriate access to mail and so minimise the exposure of mail to the risk of loss through theft or interference.

The MCA recognises that it is impossible for any measure to guarantee that such inappropriate access will never occur. However, postal operators are expected to assess the risk of such access and put in place reasonable measures to prevent such occurrences, in particular the inappropriate access to postal articles.

In addition, the MCA is of the opinion that postal operators will need to consider how they manage, measure and mitigate risk of loss or theft caused through inappropriate access to the mail and risks caused by breaches in physical security (including risks related to accidents, natural disasters and from threats related to dangerous goods,¹⁵ such as, weapons of mass destruction).

Postal operators will also need to consider how they identify the root causes of any breaches in physical security with the aim of establishing if such breaches were caused by inadequate measures or because employees did not comply with security procedures.

Postal operators also need to ensure that any equipment used to handle and deliver mail is fit for the purpose. For example, equipment in which mail is carried should

¹⁵ Refer to Article 47 of the Postal Services Act.

provide an appropriate level of security for that mail. Failure to have adequate procedures in place for maintaining and reporting defective equipment may also facilitate crime and undermine physical protection measures put in place to protect the integrity of the mail.

The basis of good preventive action is understanding the risks. Therefore regular risk assessments should be undertaken by postal operators, both in terms of authorised and unauthorised access to mail. The MCA would expect these risk assessments to be a key source of information to the postal operator in determining what additional measures to put in place to minimize these risks.

The objective of a risk assessment is to determine the likelihood that identifiable threats will harm a postal operator or its customers. The risk assessment would also cover the need to have in place things such as electronic defences (access control, alarms - including, amongst others, fire alarms, CCTV), maintenance agreements and whether compliance with risks meet industry standards and best practice.

Furthermore, it is deemed important for postal operators to have an audit trail in place for the mail handling process insofar as this is reasonably practicable. The purpose of this is to ensure that where mail is mistreated, dumped or delayed by an employee and found by a third party, the postal operator is in a position to identify who had handled that mail. This will enable the postal operator to take action under its disciplinary procedures in accordance with Part XI of the Postal Services Act, if this is appropriate.

5.1 Proposed Minimum Requirements

Postal operators must establish, maintain and adhere to policies and procedures as may reasonably be necessary to facilitate achievement of the mail integrity objectives, in particular in relation to the security of relevant premises, the use of vehicles and equipment in the collection, conveyance or delivery of postal articles, natural disasters and threats related to dangerous goods and bomb scares.

Postal operators must allocate responsibility to specific personnel within their organisations for the implementation of and compliance with these policies and procedures. Postal operators must regularly review the policies and procedures and, where necessary, update or amend those policies and procedures to ensure that they continue to meet mail integrity objectives.

The MCA is of the opinion that the policies and procedures put in place should cover:

- regular security risk assessments;

- the maintenance of records detailing, as far as reasonably practicable, which employees in each case were responsible for the conveyance, receipt, collection, sorting, delivery or handling of specific postal articles;
- measures taken to prevent or detect loss or theft of, damage or interference to mail by third parties or unauthorised third party access to the mail;
- measures taken to prevent the exposure of mail to security hazards due to natural disasters, terrorism attacks (such as threats related to weapons of mass destruction, mail bombs and bomb threats);
- measures taken to be in a position to identify the transmission of postal articles which are prohibited;
- measures taken to prevent injuries to people due to dangerous goods in the mail;
- measures to be taken, including monitoring, to prevent or detect loss or theft of, damage to, or interference with, postal articles from or at premises, vehicles or equipment; and
- provisions for monitoring places where mail is handled or conveyed.

Q3. Do you agree with the above-mentioned proposed minimum requirements with respect to the security of mail? Should anything else be addressed?

6. Disciplinary Procedures

The MCA is of the opinion that a postal operator's discipline policy plays a significant role in contributing to the overall control environment for minimising the risk to mail. Postal operators should have in place policies and procedures in support of their operating requirements, and employees need to understand what is expected of them and what the consequences for failing to do what is expected of them are. In this case the MCA is concerned with the integrity of the mail, but postal operators will have wider concerns and can be expected to have processes in place which address these.

The MCA is of the opinion that this is essential in establishing an environment within a postal operator's organisation where it is understood that mail integrity is important and that quick and effective action will be taken if it is compromised. If postal operators take quick and effective action then this may prevent minor problems in relation to mail integrity from becoming more serious.

The MCA recognises that although the Postal Services Act addresses the more serious offences of interfering with mail, it does not provide a remedy for the less serious breaches involving mail handling. It is important that postal operators consider what intermediate disciplinary action they need to take with respect to minor offences. However, the MCA does not propose that postal operators should be required to report these minor incidents to the MCA.

The MCA believes that postal operators need to set and maintain standards of behaviour which are clearly communicated to employees and are backed up by an appropriate and effective discipline policy. The MCA therefore expects postal operators to have standards of conduct which clearly define the expected behaviour of employees in relation to mail integrity. Disciplinary procedures should set out how a breach of those standards will be handled, including when the action may also constitute a criminal offence.

The MCA proposes that postal operators should maintain written records detailing any action that has been taken against employees for failure to adhere to the standards of conduct. Such records may be important if a postal operator wishes to take action against an employee under Part XI of the Postal Services Act, in demonstrating that the individual has already faced action under internal discipline procedures. The records should also help postal operators identify persistent failures to meet the standards of conduct and address these shortcomings. This may be because the standards are inappropriate or ineffective, in which case the postal operator may wish to alter the relevant standards, or it may point to a deeper issue which the postal operator needs to address.

These proposed standards deal with both the preventive action which the MCA believes is necessary to address mail integrity issues and also with the reactive action to be taken when an incident has occurred. It is focused on those who have legitimate access to mail.

6.1 Proposed Minimum Requirements

The MCA proposes the following minimum requirements:

- postal operators should make employees aware of the standards of conduct expected of them, with these standards facilitating achievement of the mail integrity objectives;
- postal operators should have a written disciplinary policy in place which sets out the action to be taken if an employee fails to adhere to the standard of conduct expected of him or her and should act in accordance with this;
- postal operators should nominate someone who is responsible for making employees aware of the standard of conduct expected of them and implementing and ensuring compliance with the discipline policy;
- postal operators should monitor implementation of and compliance with the standards of conduct and the discipline policy, and
- postal operators should regularly review the standards of conduct and the discipline policy to ensure that they remain ‘fit for the purpose’.

The MCA proposes that the discipline policy and procedures should set out:

- what constitutes a failure to meet the required standards of conduct and what action will be taken in the event of such a failure;
- how a postal operator will ensure that all employees understand that a breach of the standards of conduct may sometimes be a criminal offence and how this will be dealt with;
- the records that will be kept on action taken under the discipline policy; and
- a process to identify consistent failure to meet the standards of conduct and take action.

Q4. Do you agree with the above-mentioned proposed minimum requirements with respect to disciplinary standards? Should anything else be addressed?

7. Agents and Subcontractors

The MCA recognises agents and sub-contractors (e.g. sub post offices, mail conveyance entities) are normally utilised in the postal sector and the MCA is keen to ensure that their presence does not jeopardise the integrity of the mail.

In accordance with law, postal operators are responsible for the actions of their agents. Hence, postal operators will need to satisfy themselves that any agent or sub-contractor has and applies appropriate policies and procedures which enable them to comply with the established minimum standards.

The MCA also expects that postal operators will establish processes to ensure that their agents and sub-contractors are taking the necessary steps to secure compliance from these third parties. However, the MCA recognises that a postal operator cannot directly procure compliance from these third parties at all times. The MCA expects the postal operator to demonstrate that it has taken all reasonable steps to put in place and monitor arrangements with these third parties. How postal operators choose to monitor and ensure compliance is left up to their discretion.

Where the agent or sub-contractor is a postal operator, it shall be sufficient for the postal operator which appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of mail integrity procedures to that postal operator in fulfilment of its obligations.

The MCA expects that postal operators will implement these minimum requirements through contractual arrangements. It notes, however, that formal contracts may not always be in place and postal operators will need to consider how to comply with these minimum standards where no contract is in place.

7.1 Proposed Minimum Requirements

The MCA proposes the following requirements:

- postal operators should take all reasonable steps to ensure that all agents or sub-contractors involved in handling or conveying mail on their behalf comply with the standards relating to mail integrity as though they apply to them directly; and
- postal operators should take all reasonable steps to ensure that agents or sub-contractors providing the postal operators with employees comply with these mail integrity standards as though these standards applied to the agents or sub-contractors directly.

Q5. Do you agree with the requirements proposed above with respect to agents and sub-contractors? Should anything else be addressed?

8. Information Requirements

Information and reporting requirements are essential for the postal operators to be able to monitor what is happening in their organisation and address any areas of risk. They are also required to ensure that the MCA can be informed about the frequency of mail integrity related incidents and consider whether a postal operator is doing enough to address these issues.

Recording of Information

The MCA believes that the recording of information regarding mail integrity incidents is crucial to a postal operator's ability to manage the integrity of the mail that it handles. The MCA is therefore of the opinion that postal operators should record details of loss and theft of, damage to and/or interference with, the mail. Postal operators need to review and analyse this information constantly with a view to identifying trends or particular areas of concern which need to be addressed. The MCA believes that this measure assists a postal operator in taking preventative action in relation to mail integrity.

The MCA believes that it is often in recording minor incidents that, at first sight may appear minor and not worthy of recording, that a postal operator can spot a trend and so put in place measures to prevent the occurrence of a more serious incident. Postal operators will have to put in place procedures to ensure that all incidents are brought to the attention of the designated individual(s) who can then collate these for the purpose of the analysis set out above. Members of staff responsible for mail integrity should fully understand their duties and obligations, as well as the information and reporting requirements when dealing with any incidents as they occur.

The Postal Services Act¹⁶ states that no proceedings for any offence under the said Act shall be instituted without the consent in writing of the MCA or at its request. In addition, the MCA may assist in or conduct the prosecution with respect to any offences under the said Act or regulations made thereunder.¹⁷ In view of this enforcement role, the MCA needs to ensure that postal operators properly record any incidents so as to be adequately equipped with all evidence necessary to the prosecution of an offence.

¹⁶ Refer to Article 64(1) of the Postal Services Act.

¹⁷ Refer to Article 64(3) of the Postal Services Act.

If a postal operator decides to instigate a prosecution in relation to any incident related to Part XI of the Postal Services Act, it shall notify the MCA immediately and provide such information in relation to the relevant incident and prosecution that the MCA may require. This recording requirement is to be read in conjunction with the obligation of postal operators to provide the MCA with any information as the MCA may reasonably require for the purpose of performing its functions at law.¹⁸

When an incident is brought to the attention of the MCA, it will consider whether postal operators have adequate measures in place to mitigate the occurrence of such offences. The recording of information will encourage postal operators to take preventive action to limit the occurrence of such incidents. Furthermore, it will also require postal operators to take firm and prompt action when an incident does occur.

Reporting Requirements

Postal legislation outlines the importance of reporting information to the MCA. The MCA proposes to address this by establishing the reporting requirements with respect to the protection of mail integrity. The MCA seeks to impose these reporting requirements on all postal operators.

The MCA proposes that a report on loss, theft, damage and/or interference of postal articles be drawn up by all postal operators and delivered to the MCA within twenty (20) working days from the end of each quarter. Postal operators must also submit to the MCA on an annual basis and not later than twenty (20) working days from the end of each financial year, a statement of the measures that the postal operator took or intends to take to remedy any failures or patterns of failure to achieve the mail integrity objectives and to reduce the numbers of postal articles lost, stolen, damaged or interfered with.

This information is instrumental in enabling the MCA to gain an understanding of both the postal operator's experience with mail integrity and also the sector as a whole. This information may lead the MCA to propose changes to a particular postal operator's policies and procedures to deal with particular concerns.

In addition, the MCA is of the opinion that customers (both the intended recipient and the posting customer) should be appropriately informed when mail is stolen, dumped or wilfully delayed so that customers can take action accordingly.

8.1 Proposed Minimum Requirements

The MCA proposes that the information and reporting requirements should include:

- that postal operators record all mail integrity incidents;

¹⁸ Article (3), sub article 3(a) of the Postal Services Act.

- that mail integrity incident records should include information on the:
 - date, time and place of the incident;
 - the number of (or where the precise number is not known, a reasonable estimate of the number of) items involved;
 - as far as reasonably practicable, the employee(s) involved in the conveyance of the items involved in the incident;
 - the circumstances pertaining to the incident; and
 - any other information in relation to the incident which a postal operator may require.
- the postal operators' review of the information recorded with respect to incidents with a view to assessing trends, risks and mitigation;
- a report, on the part of postal operators, to the MCA on a quarterly basis regarding incidents relating to mail integrity;
- the provision to the MCA, on the part of postal operators, of an annual statement of the measures that they intend to take to remedy any failures or patterns of failure to achieve the mail integrity objectives and to reduce the numbers of postal articles lost, stolen, damaged or interfered with;
- information to customers when mail is stolen, dumped or wilfully delayed so that customers can take action accordingly; and
- the nomination, by the respective postal operators, of a member(s) of staff to take responsibility for the recording and reporting responsibilities.

Q6. Do you agree with the MCA's proposals for the reporting of information?
Should anything else be addressed?

9. Enforcement

Appropriate enforcement constitutes a key incentive if the objective of protecting the integrity of mail is to be achieved by postal operators. The MCA proposes that enforcement of the mail integrity procedures will be carried out through the:

- licensing / general authorisation process, and the
- monitoring of the licensees / authorised undertakings.

9.1 Licensing / General Authorisation Process

The MCA will ensure that the mail integrity procedures forwarded to the MCA, for approval, comply with the minimum standards and that the MCA will take those steps it deems necessary to satisfy itself that a postal operator complies with these standards.

A failure to demonstrate an ability to satisfy the minimum standards may constitute a breach of the licence or authorisation and lead to the MCA taking enforcement action in accordance with the provisions set out in the Postal Services Act.¹⁹

The MCA may also undertake site visits for every licensee or authorised undertaking. The MCA recognises the importance of site visits and will consider how and when to undertake these following the submission by postal operators of their mail integrity procedures, taking a risk-based approach. Following any site visit, the MCA may request the postal operator to improve certain procedures, where appropriate, within a specified period of time.

9.2 Monitoring Postal Operators

The MCA proposes that postal operators should be periodically monitored in order to ensure that they comply with the mail integrity standards. Postal operators are encouraged to regularly audit their mail integrity policies and procedures and assess compliance with the established minimum standards and identify needed improvements.

The MCA or a competent external entity acting on behalf of the MCA will audit the policies and procedures adopted by postal operators and assess compliance with the established minimum standards as deemed necessary.

¹⁹ Refer to Article 11 (in case of non-compliance with conditions of general authorisations) and Article 12 (in case of non-compliance with conditions of individual licences) of the Postal Services Act.

The MCA will base the frequency of audits by applying a risk-based assessment. The determining factors would be the size of the postal operator, whether the postal operator is operating within the universal services area or outside the scope of the universal service, any independent audits carried out by the postal operator and whether it has had any compliance issues in the past. In addition, the MCA will utilise the postal operator's quarterly and annual reports on mail integrity submitted to the MCA as part of its risk-based assessment.

The monitoring visits, audits and reviews of information received will either confirm that a postal operator's activities present no cause for concern, or will bring to light issues that need to be followed up.

The MCA expects that any follow up action will be low key initially, but enforcement action is clearly a possibility. A breach of the proposed minimum standards would constitute a breach to the conditions of the licence or general authorisation and the MCA will assess the appropriate action to take in accordance with the provisions set out in the Postal Services Act.

Q7. Do you agree with the MCA's approach to enforcing the minimum standards? Should anything else be addressed?

Appendix A – Proposed Minimum Standards

1. Proposed Minimum Standards

- 1.1 The purpose of establishing minimum standards is for postal operators²⁰ to be in a position to achieve their mail integrity objectives depicted in Section 1.2 below.
- 1.2 The mail integrity objectives are to minimise the exposure of postal articles²¹ conveyed by postal operators to the risk of loss, theft, damage and/or interference and to minimise the risk of offences under Part XI of the Postal Services Act (Cap 254).
- 1.3 These minimum standards set out the requirements and procedures to be followed in order to satisfy the mail integrity objectives mentioned in Section 1.2 above.
- 1.4 The minimum standards apply to all postal operators and postal articles conveyed, received, collected, sorted, delivered or otherwise handled by postal operators.
- 1.5 Postal operators should allocate responsibility to specific personnel within their organisations for the implementation of and compliance with these minimum standards.
- 1.6 In meeting their obligations with respect to the integrity of mail postal operators should have due regard to the size and nature of their organisation and operations.
- 1.7 Where the minimum standards require the establishment of a policy and procedures, the said policy and procedures must be clearly documented, kept under document control, and available to those specific members of staff within the postal operator's organisation who are responsible for the implementation of and compliance with the said policy and procedures.
- 1.8 Reference to employee(s)²² means permanent, temporary, casual or part-time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling postal articles or who are reasonably likely to have access to postal articles in the course of their work.

²⁰ Postal Operator has the meaning given in the Postal Services Act (Cap 254).

²¹ Postal Articles has the meaning given in the Postal Services Act (Cap 254).

²² Employee has the meaning of 'officer of a postal operator' as defined in the Postal Services Act (Cap 254).

2. Recruitment

2.1 If a postal operator employs or uses the services of (or intends to employ or use) employees, the postal operator must:

- i) establish, maintain and adhere to a recruitment policy in relation to the employment or utilisation of employees designed to facilitate the achievement of the mail integrity objectives; and
- ii) allocate responsibility to specific personnel within its organisation for the implementation, compliance and monitoring of that recruitment policy.

2.2 The recruitment policy and procedures should include:

- i) a description of the various different jobs, roles and responsibilities in respect of which the recruitment policy should apply;
- ii) the information about a prospective employee that the postal operator requires;
- iii) the steps which the postal operator needs to take to satisfy itself of the identity of the prospective employee;
- iv) the steps which the postal operator needs to take in order to confirm a prospective employee's work history;
- v) a requirement for prospective employees to declare any criminal convictions or any cautions or conditional discharges for offences relating to postal articles or dishonest conduct generally and guidelines on how any such convictions, cautions or conditional discharges declared by prospective employees will be taken into consideration in deciding whether or not to employ the prospective employee; and
- vi) the ongoing monitoring of employees.

2.3 Postal operators must regularly monitor implementation of and compliance with the recruitment policy.

2.4 Postal operators must regularly review the recruitment policy and, where necessary, update or amend the policy to ensure that it continues to meet the mail integrity objectives.

3. Training

3.1 If a postal operator employs or contracts the services of employees, the postal operator must:

- i) establish, maintain and adhere to a training policy that provides for employees to receive initial and ongoing training (tailored to their job specific needs) so as to facilitate achievement of the mail integrity objectives;
- ii) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that policy; and
- iii) ensure that all employees are informed of the provisions of Part XI of the Postal Services Act and be made aware of the seriousness of the offences detailed in those sections.

3.2 The training policy and procedures should include:

- i) the levels of training required to meet the mail integrity objectives, including the minimum level of training;
- ii) the levels of training required taking into account the responsibilities of and work undertaken by employees in relation to postal articles;
- iii) an explanation of how the training will be provided;
- iv) the frequency with which training should be provided; and
- v) details of how training is delivered, recorded and monitored.

3.3 Postal operators must monitor on a regular basis the implementation of and compliance with the training policy.

3.4 Postal operators must review on a regular basis the training policy and, where necessary, update or amend the policy to ensure that it continues to meet the mail integrity objectives.

4. Disciplinary Procedures

4.1 If a postal operator employs or contracts the services of employees, the postal operator must:

- i) make employees aware of the standards of conduct expected of them, with these standards facilitating the achievement of the mail integrity objectives; and
- ii) establish, maintain and adhere to a disciplinary policy (code of behaviour) in relation to the action to be taken if an employee fails to adhere to the standard of conduct expected of him or her and should act in accordance with this.

4.2 The standards of conduct and disciplinary policy should be such as to facilitate achievement of the mail integrity objectives.

- 4.3 Postal operators must allocate responsibility to specific personnel within their organisations for:
- i) making employees aware of the standards of conduct expected of them; and
 - ii) the implementation of and compliance with the disciplinary policy.
- 4.4 The disciplinary policy and procedures should include:
- i) an explanation of what constitutes a failure to meet the required standards of conduct and what action will be taken in the event of such a failure;
 - ii) an explanation of how the postal operator ensures that all employees understand when a failure to meet the standards of conduct might also constitute a criminal offence and how this will be dealt with;
 - iii) a provision for appropriate records to be maintained detailing any action taken against employees for failure to meet the standards of conduct; and
 - iv) a process to identify consistent failure to meet the relevant standards of conduct and the taking of appropriate remedial action.
- 4.5 Postal operators must monitor on a regular basis the implementation of and compliance with the standards of conduct and disciplinary policy.
- 4.6 Postal operators must review on a regular basis the standards of conduct and disciplinary policy and, where necessary, update or amend the standards of conduct or disciplinary policy, as the case may be, to ensure that they continue to meet the mail integrity objectives.

5. Security of Mail

- 5.1 Postal operators must establish, maintain and adhere to such other policies and procedures as may reasonably be necessary to facilitate the achievement of the mail integrity objectives in relation to the security of relevant premises, the use of vehicles and equipment for the collection, conveyance or delivery of postal articles and risks related to accidents, natural disasters and from treats related to dangerous goods.
- 5.2 Postal operators must allocate responsibility to specific personnel within their organisation for the implementation of and compliance with the policies and procedures specified in Section 5.1 above.
- 5.3 Postal operators must regularly review the policies and procedures and, where necessary, update or amend those policies and procedures to ensure that they continue to meet the mail integrity objectives.
- 5.4 The policies and procedures should include:

- i) a process for undertaking regular risk assessments;
- ii) the maintenance of records detailing, as far as reasonably practicable, which employees in each case were responsible for the conveyance, receipt, collection, sorting, delivery or handling of specific postal articles;
- iii) measures taken to prevent or detect loss or theft of, damage or interference to mail by third parties or unauthorised third party access to the mail;
- iv) measures taken to prevent the exposure of mail to security hazards due to natural disasters and terrorism attacks;
- v) measures taken to prevent, and respond to threats related to weapons of mass destruction, mail bombs and bomb threats;
- vi) measures taken to identify the transmission of postal articles which are prohibited;
- vii) measures taken to prevent injuries to people due to dangerous goods in the mail;
- viii) measures to be taken, including monitoring, to prevent or detect loss or theft of, damage to, or interference with, postal articles from or at premises, vehicles or equipment; and
- ix) provisions for monitoring places where mail is handled or conveyed.

6. Agents and Sub-Contractors

- 6.1 Each postal operator shall take all reasonable steps to ensure that all of its agents or sub-contractors who are involved in the conveyance, receipt, collection, sorting, delivery or handling of postal articles, comply with these standards as though these standards applied to the agent or sub-contractor.
- 6.2 Each postal operator shall take all reasonable steps to ensure that all of its agents or sub-contractors who are responsible for providing it with employees shall comply with these standards as though these standards applied to the agent or sub-contractor.
- 6.3 Where the agent or sub-contractor is a postal operator, it shall be sufficient for the postal operator which appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of mail integrity procedures to that postal operator in fulfilment of its obligations.

7. Information and Reporting Requirements

- 7.1 All incidents of loss or theft of, damage to, or interference with postal articles must be recorded in reasonable detail.
- 7.2 Information to be recorded includes:
- i) the date, time and place of the incident;
 - ii) the number of (or where the precise number is not known, a reasonable estimate of the number of) postal articles;
 - iii) the subject of the incident;
 - iv) as far as is reasonably practicable the employees involved in the conveyance, receipt, collection, sorting, delivery or handling, as the case may be, of the postal articles in question;
 - v) the circumstances pertaining to the incident; and
 - vi) any other particulars relating to the incident which the postal operators may require.
- 7.3 If a postal operator decides to instigate a prosecution in relation to any incident, it shall notify the MCA immediately and provide such information in relation to the relevant incident and prosecution that the MCA may require.
- 7.4 Postal operators must review on a regular basis the information recorded as specified above with a view to identifying any trends, patterns or other notable features.
- 7.5 Postal operators must submit to the MCA reports regarding incidents relating to mail integrity by not later than twenty (20) working days from the end of each quarter to which those reports relate, which include:
- i) the number of (or where precise numbers are not known, reasonable estimates of the numbers of) postal articles during the relevant quarter which were lost, stolen, damaged and/or interfered with; and
 - ii) details of any trends, patterns, or other notable features (such as above average incident levels at certain locations) in relation to the incidence of loss or theft of, damage to, or interference with, postal articles.
- 7.6 Postal operators must also submit to the MCA on an annual basis and not later than twenty (20) working days from the end of each financial year, a statement of the measures that the postal operator took or intends to take to remedy any failures or patterns of failure to achieve the mail integrity objectives and to

reduce the numbers of postal articles lost, stolen, damaged and/or interfered with.

- 7.7 Postal operators should inform customers when mail is stolen, dumped or wilfully delayed so that customers can take action accordingly.
- 7.8 Postal operators must allocate responsibility to specific personnel within their organisation for meeting the recording, reporting and other requirements with respect to information and reporting requirements.